

**UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS**

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IN RE: PHARMACEUTICAL INDUSTRY  
AVERAGE WHOLESAL PRICE  
LITIGATION

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) MDL No. 1456  
) Master File No. 1:01-CV-12257-PBS  
) Sub-Category Case No. 1:08-CV-11200  
)

THIS DOCUMENT RELATES TO:  
*United States ex rel. Linnette Sun and Greg  
Hamilton, Relators*  
v.  
*Baxter Hemoglobin Therapeutics and Baxter  
International Inc.*

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) Judge Patti B. Saris  
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**MAY 2010 STATUS REPORT**

The undersigned counsel for Defendant Baxter International Inc. hereby submits the attached Status Report for May 2010, in accordance with the Court's June 17, 2004 Procedural Order.

DATED this 3rd day of May, 2010.

Respectfully submitted,

/s/ Ruchi Jain

Merle DeLancey

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**CERTIFICATE OF SERVICE**

I hereby certify that I, Ruchi Jain, an attorney, caused a true and correct copy of the foregoing, MAY 2010 STATUS REPORT, to be delivered to all counsel of record by electronic service via LexisNexis File & Serve, on May 3, 2010, for posting and notification to all parties.

/s/ Ruchi Jain

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**MAY 2010 STATUS REPORT**

<b>PRIVATE CLASS CASE</b>	<i>United States ex rel. Linnette Sun and Greg Hamilton, Relators v. Baxter Hemoglobin Therapeutics and Baxter International Inc.</i>
<b>MDL DOCKET NUMBER</b>	Master File No. 1:01-CV-12257-PBS Sub-Category Case No. 1:08-CV-11200
<b>JURISDICTION</b>	D. Mass, pursuant to JPML order
<b>STATUS</b>	<ul style="list-style-type: none"> <li>• Transferred to MDL 1456 by JPML on July 14, 2008</li> <li>• Court Order entered on July 15, 2008 consolidating <i>Sun</i> case with the lead case No. 01-12257</li> <li>• Court received MDL record from the United States District Court for the District of Colorado on August 5, 2008</li> <li>• Status Conference held on June 22, 2009</li> <li>• Court entered Case Management Order with respect to briefing schedule on June 23, 2009; otherwise, all discovery is stayed</li> <li>• Defendant filed Motion for Leave to File Excess Pages on August 14, 2009 <ul style="list-style-type: none"> <li>• Relators filed Opposition to Defendant's Motion for Leave to File Excess Pages on August 20, 2009</li> <li>• Electronic order entered by the Court granting Defendant's Motion for Leave to File Excess Pages on August 21, 2009</li> </ul> </li> <li>• Defendant filed Motion to Dismiss Relators' Complaint (and accompanying Memorandum, Declaration, Exhibits, and Proposed Order) on August 14, 2009 <ul style="list-style-type: none"> <li>• Relators filed Opposition to Defendant's Motion to Dismiss Relators' Complaint (and accompanying Proposed Order) and Motion for Excess Pages on September 15, 2009</li> <li>• Defendant filed Reply in Further Support of Its Motion to Dismiss Relators' Complaint (and accompanying Declaration and Exhibits) on September 30, 2009</li> </ul> </li> </ul>

- Relators filed Motion to Lift Stay on Discovery (and accompanying Memorandum, Exhibits, and Proposed Order) on August 31, 2009
  - Defendant filed Opposition to Relators' Motion to Lift Stay on Discovery on September 10, 2009
- Defendant filed Motion For Leave to Conduct Limited Discovery and for an Extension of Time to Submit Reply Brief on September 23, 2009
  - Electronic order entered by the Court granting Defendant's Motion for Leave to Conduct Limited Discovery on October 15, 2009
- Defendant served Notices of Deposition and Requests for Documents on Relators on October 19, 2009
  - Relators produced documents and served Objections and Responses to Requests for Documents on November 19, 2009
  - Relators finalized document production for Linnette Sun on January 4, 2010. Production for Greg Hamilton is ongoing.
  - Defendant deposed Linnette Sun on January 19, 2010 and Greg Hamilton on January 21, 2010
- Defendant filed Supplemental Reply Brief in Further Support of its Motion to Dismiss Relators' Complaint (and accompanying Exhibits and Proposed Order) on January 27, 2010
- Hearing on Motion to Dismiss held on February 9, 2010 at 3:30 p.m. The Court issued various rulings on the record, including dismissal of Counts II, III, and VII-XXI.
- Memorandum and Order issued by the Court denying Defendant's Motion to Dismiss on March 26, 2010. The Court dismissed without prejudice Counts I (as to all drugs other than Advate and Recombinate), II, III, and VII-XXI.
- Answer and Affirmative Defenses filed by Baxter Hemoglobin Therapeutics and Baxter International Inc. on April 19, 2010.